

## SUMMARY REPORT OF INVESTIGATION

### I. EXECUTIVE SUMMARY

Date of Incident:	March 4, 2016
Time of Incident:	4:40 AM
Location of Incident:	XXXX S. Avenue K
Date of COPA Notification:	March 4, 2016
Time of COPA Notification:	9:00 AM

On March 4, 2016, Officer A and his wife, Civilian 1, returned to their residence located at XXXX S. Avenue K, Chicago, Illinois from a bar around 4:00 AM. After getting into an argument at the bar, Officer A decided to sleep on their couch. While Officer A was sleeping on the couch, Civilian 1 woke him up. An altercation followed that resulted in their daughter, Minor Civilian 1, calling 911. Officers responded to the domestic altercation at approximately 4:40 AM. Civilian 1 related the below allegations to the officers ensuing in the officers initiating a log number. COPA<sup>1</sup> reviewed these allegations.

### II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXXXX, Employee #XXXXXX, Date of Appointment: XX/XX 2005, Police Officer, Unit of Assignment: XX, Date of Birth: XX/XX 1975, Male, Hispanic
Subject #1:	Civilian 1, Date of Birth: XX/XX 1981, Female, Hispanic

### III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. Engaged in a verbal altercation with Civilian 1, in violation of Rules 2, 3, 8, and 9	Sustained
	2. Pushed Civilian 1 against the wall, in violation of Rules 2, 3, 8, and 9	Sustained

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<p>3. Grabbed Civilian 1 by the neck and choked her, in violation of Rules 2, 3, 8, and 9</p> <p>4. Lifted Civilian 1 off the ground by her throat, in violation of Rules 2, 3, 8, and 9</p> <p>5. Used your official position for personal gain or use when you used Department resources to access the Criminal History of Civilian 1 and sent it to COPA on or about February 15, 2018, in violation of Rules 4 and 41</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
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#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. **Rule 2:** Any action or conduct which impeded the Department's efforts to achieve its policy and goals or brings discredit upon the Department
2. **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals
3. **Rule 4:** Any conduct or action taken to use the official position for personal gain or influence
4. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty
5. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty
6. **Rule 41:** Disseminating, releasing, altering, defacing or removing any Department record or information concerning police matters except as provided by Department orders

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##### General Orders

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1. **G01-01:** Mission Statement and Core Values

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##### Special Orders

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1. **S09-04:** Criminal History Records

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#### V. INVESTIGATION<sup>2</sup>

##### a. Interviews

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

COPA conducted **Officer A's audio statement** on February 13, 2018. Officer A stated that Civilian 1 is currently his wife as she was on March 4, 2016. Officer A described his relationship with his stepdaughter, Minor Civilian 1, as good. Officer A said that he, Civilian 1, and Minor Civilian 1 reside at XXXX S. Avenue K. Officer A stated he recalls that he, Civilian 1, and Minor Civilian 1 were present at the house during the incident. Officer A stated that he and Civilian 1 were at a bar where he consumed approximately one beer and Civilian 1 consumed approximately six drinks. Officer A indicated that while at the bar he and Civilian 1 got into an argument. During the argument, Officer A said that Civilian 1 poured beer onto the floor, and therefore, they were "kicked out" of the bar. Officer A stated that the argument pertained to his ex-wife and ex-girlfriends. Officer A stated he and Civilian 1 separately went home.

Due to the argument at the bar, Officer A indicated he slept on the sofa in the living room. While he was sleeping on the couch, Officer A stated Civilian 1 looked through his cell phone and saw a credit card company's telephone number thinking it was his ex-girlfriend's number, even though it was an '800' number. Officer A stated Civilian 1 then woke up him by grabbing his shirt and shaking him. Officer A stated he got up from the couch. Officer A stated Civilian 1 argued with him asking whose number it was, and asking whether he had been calling another woman. Officer A indicated that Civilian 1 was yelling at him and intoxicated.

Officer A said he plead with Civilian 1 by telling Civilian 1 to leave him alone and go back to bed. Officer A said he was upset and "might have been yelling." Officer A stated he tried to leave the house. Officer A stated Civilian 1 threw the television to the ground and a glass item against the wall. As he was attempting to leave the house, Officer A stated that Civilian 1 held him by his shirt. Officer A stated he attempted to "break free" by holding Civilian 1's wrists. Officer A stated he pushed Civilian 1 when trying "to get her off of [him]" during his attempt to leave the house. Officer A stated he might have "bumped [Civilian 1]." Officer A described "bumped her" as "trying to get free," "break away," and "leave." Officer A stated, "of course you are going to have some physical contact" while trying to leave. Officer A stated that he did not place his hands anywhere else about Civilian 1's body; did not push Civilian 1 against any furniture or wall; did not place his hands on Civilian 1's neck; did not choke Civilian 1; and did not lift Civilian 1 off the ground. When asked again, Officer A said he does not recall whether he yelled during the verbal argument. Officer A said it was a "heated confrontation."

Officer A stated he does "not know for a fact", but believes Minor Civilian 1 called 911 because she heard the argument. Officer A stated Minor Civilian 1 was in her bedroom, which is approximately twenty feet from the living room. By the time the officers arrived, Officer A stated the verbal altercation calmed down. Officer A said he does not know where or what Minor Civilian 1 was doing because he "was not paying attention to her." Officer A stated that the officers asked him what was happening to which responded by telling them what occurred at the bar plus everything leading up to the officers arriving. Officer A stated he does not recall what the officers replied. Officer A stated he recalls speaking to two officers out of four officers that arrived. Officer A stated the officers spoke to Civilian 1, but he does not know the substance of their conversation because he voluntarily left the house. Officer A said the officers did not ask him to leave because he left on his own accord.

Officer A stated that the color of Civilian 1's neck varies because she scratches it. Officer A described Civilian 1's skin as light which becomes a "pinkish" color when she scratches it, however, he also indicated that he is unsure what color Civilian 1's skin turns because he is color deficient. Officer A stated he does not recall the color of Civilian 1's neck when the officers arrived. Officer A stated his recollection of the incident is "very foggy" and remembers "bits and pieces."<sup>3</sup>

On February 15, 2018, Officer A sent a To-From report to COPA stating that Civilian 1 behaved abusively and erratically in the past. Officer A stated these incidents were not documented because he never reported the incidents to save himself from embarrassment. The To-From report includes Civilian 1's<sup>4</sup> Criminal History Report. The report lists three arrests for: (1) traffic violations dated September 24, 2012; (2) traffic violations and driving under the influence of alcohol dated February 6, 2010; and (3) battery dated February 21, 2006.<sup>5</sup>

COPA conducted **Officer A's second audio statement** on February 26, 2018. Officer A stated Civilian 1 is his wife. Officer A stated he authored a To-From report<sup>6</sup>, which included the Criminal History Report of Civilian 2, who is now Civilian 1. Officer A stated the report was pulled on February 13, 2018 at 9:42 AM while on-duty. Officer A confirmed that the report was requested by XXXXXXXX, which is his PC number. Officer A said he ran Civilian 1's birthday and first name on a work computer, which is a CPD resource. Officer A stated that COPA did not request Civilian 1's criminal report. Officer A stated when he pulled Civilian 1's criminal history report, he was not conducting a Department investigation on her in his official capacity as a CPD officer. Officer A stated he was not assigned to an investigation or case related to Civilian 1.

Officer A said he provided the report to COPA only as a defense against the allegations related to the March 4, 2016 incident. Officer A indicated he "did it for myself." Officer A indicated that he did not show or provide the report to others. Officer A further stated that he printed and sent the report to COPA "as proof" and "to help [his] case." Officer A stated he accessed the report to prove that Civilian 1 has a history of drinking issues and has been arrested for domestic battery. Officer A said he began his relationship with Civilian 1 in 2011. Officer A stated the arrests listed in the report did not occur during the duration of his and Civilian 1's relationship. Officer A stated he did not see anything wrong with pulling the report, but "now I realize that [omitted] I shouldn't have done it." Officer A stated he pleads ignorance regarding this. Officer A showed COPA videos dated February 22, 2018 at 12:22 AM regarding Civilian 1.<sup>7</sup>  
<sup>8</sup>

On April 14, 2016, Civilian 1 stated to IPRA that she did not wish to provide a statement. Civilian 1 refused to explain her reasoning.<sup>9</sup>

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<sup>3</sup> Attachment 36

<sup>4</sup> Now known as Civilian 1

<sup>5</sup> Attachment 37

<sup>6</sup> See Attachment 37

<sup>7</sup> Officer A submitted screenshots of these videos. These videos have no relevance to the current investigation. See Attachment 45.

<sup>8</sup> Attachment 44

<sup>9</sup> Attachment 25

**b. Digital Evidence**

During Minor Civilian 1's **911 call**, she is heard requesting police to her house because her mother, Civilian 1, and stepfather, Officer A, are fighting. Minor Civilian 1 is heard telling the operator there is glass on the floor. A male is heard yelling in the background.<sup>10</sup>

IPRA requested **Crime Scene/Evidence Photographs** related to RD#XXXXXXX. The photographs depict red discoloration on Civilian 1's neck. The photographs depict a television (screen down) and broken glass on the floor.<sup>11</sup>

**c. Documentary Evidence**

Sergeant A's **initiation report** indicates he observed some redness on Civilian 1's neck area and reports Civilian 1's allegations.<sup>12</sup>

The Chicago Police Department ("CPD") **Original Case Incident Report** RD# XXXXXXX lists Civilian 1's injury as minor by being choked. The report states that officers responded to a domestic disturbance between Officer A and Civilian 1. The report states that during a verbal altercation Officer A grabbed Civilian 1, pushed her against the wall, choked her, and lifted her off the floor while choking her. The report indicates that the officers observed minor redness on Civilian 1's neck. Additionally, the report stated that Civilian 1 requested for Officer A to leave the residence, and he complied.<sup>13</sup>

The **CPD Event Query** indicates Officer A and Civilian 1's child, Minor Civilian 1, called 911 stating her parents were fighting. The report states that a male could be heard yelling in the background.<sup>14</sup>

**d. Additional Evidence**

Chief of CPD's Bureau of Internal Affairs, Chief A, approved the continuation of this investigation despite no affidavit being signed by Civilian 1.<sup>15</sup>

**VI. ANALYSIS**

COPA does not find Officer A as credible as Minor Civilian 1 because Officer A stated his memory and recollection of the incident is "very foggy" and only remembers "bits and pieces" of it. Officer A stated in detail what occurred leading up to the incident, but stated he does not entirely recall the incident concerning the allegations. Additionally, once Officer A left the scene, Minor Civilian 1 felt more comfortable and inferably overcame her fear by apprising the officers of the incident.

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<sup>10</sup> Attachment 14

<sup>11</sup> Attachment 23

<sup>12</sup> Attachment 3

<sup>13</sup> Attachment 4

<sup>14</sup> Attachment 7

<sup>15</sup> Attachment 27

COPA recommends a finding of Sustained for Allegation #1 against Officer A, that he engaged in a verbal altercation with Civilian 1. It is undisputed that Officer A engaged in a verbal altercation with Civilian 1. In his statement, Officer A stated that Civilian 1 began an argument with him where he “plead” to Civilian 1. Officer A admitted to engaging in the verbal altercation because he stated that it had calmed down prior to the officers arriving to their residence. More importantly, Minor Civilian 1 informed 911 that her parents were fighting. In the 911 call, a male is heard yelling. A reasonable inference can be made that the male voice was Officer A’s. By contributing to the argument, Officer A engaged in the verbal altercation with Minor Civilian 1. Therefore, COPA recommends a finding of Sustained for Allegation #1.

COPA recommends a finding of Sustained for Allegation #2 against Officer A, that he pushed Civilian 1 against the wall. Civilian 1 alleged that during the verbal altercation, Officer A pushed her against the wall. Officer A denied pushing Civilian 1 against the wall or furniture, however, he admitted to pushing Civilian 1 when he attempted to break away. Officer A also said that he “bumped” Civilian 1. Officer A described “bumped her” as “trying to get free,” “break away,” and “leave.” Officer A explained his purpose for “bumping” Civilian 1, rather than explaining the act of bumping Civilian 1. Moreover, Officer A said he only remembers “bits and pieces” of the incident. It is more likely than not that Officer A does not remember that when he pushed Civilian 1 it was against the wall. For the foregoing reasons, COPA recommends a finding of Sustained for Allegation #2.

COPA recommends a finding of Sustained for Allegation #3 against Officer A, that he grabbed Civilian 1 by the neck and choked her. Officer A denies this allegation occurred, however, he also stated that he does not recall the entire incident. It is more likely than not that Officer A grabbed Civilian 1 by the neck and choked her. Although Civilian 1 refused medical attention, the responding sergeant and officers observed redness on Civilian 1’s neck and documented their observations in their reports. The ET photographs also show red discoloration on Civilian 1’s neck. Officer A stated that Civilian 1 scratches herself, subsequently, changing the color of Civilian 1’s skin. However, in his statement, Officer A never indicated that Civilian 1 was scratching her neck at the time of the alleged incident. Therefore, COPA recommends a finding of Sustained for Allegation #3.

COPA recommends a finding of Sustained for Allegation #4 against Officer A, that he lifted Civilian 1 off the ground by her throat. Officer A denies this allegation occurred, however, he also stated that he does not recall the entire incident. Civilian 1 told the responding officers and sergeant that Officer A lifted her off the floor by her throat. The responding sergeant and officers observed redness on Civilian 1’s neck and documented their observations in their reports. The ET photographs also show red discoloration on Civilian 1’s neck. It is more likely than not that the red discoloration on Civilian 1’s neck was attributed by Officer A when he lifted Civilian 1 off the floor by her throat.

Even though there is no additional evidence attesting to this allegation, COPA finds Civilian 1 more credible than Officer A because Officer A stated that he does not fully remember the incident. Civilian 1 also alleged this allegation to the responding sergeant and officers shortly after it occurred. Because COPA finds Civilian 1 more credible, it is more likely than not that this allegation transpired. Therefore, COPA recommends a finding of Sustained for Allegation #4.

COPA recommends a finding of Sustained for Allegation #5 against Officer A, that he used his official position for personal gain or use when he used Department resources to access the Criminal History of Civilian 1 and sent it to COPA on or about February 15, 2018.

Rule 4 states “any conduct or action taken to use the official position for personal gain or influence.” Rule 41 states “disseminating, releasing, altering, defacing or removing any Department record or information concerning police matters except as provided by Department orders. It is undisputed that Officer A used his official position as a CPD officer when he accessed Civilian 1’s criminal history record from a Department computer (a Department resource) while on-duty and, subsequently, released it to COPA.

Special Order S09-04 regulates when Department personnel may access criminal history records. It states “Access to criminal history record information will be granted to sworn Department personnel when it is related to a specific Department investigation. Department records will not be used for non-Department purposes.” Officer A is a sworn Department member who may access criminal history record information within the means of Special Order S09-04. However, he accessed Civilian 1’s criminal history record information for personal use or gain because he wanted to use it as a defense in this non-Department investigation.

When Officer A accessed Civilian 1’s criminal history record information, he was not assigned to or conducting a Department investigation related to Civilian 1. In his statement, Officer A said that he accessed the report to use as a defense in COPA’s investigation against him. COPA is independent and not a part of the Department, thus, this investigation is not a specific Department investigation. Also, COPA did not request Officer A for a copy of Civilian 1’s criminal history record because it has access to the record. Officer A did not have reason to access Civilian 1’s criminal history record, other than for a non-Department purpose, which was to use the record as a defense in COPA’s investigation. Officer A admitted that he should not have accessed her report. Although Officer A stated that he only provided the report to COPA, he has a copy and it is possible for him to disseminate or release the report to another individual. For the foregoing reasons, COPA recommends a finding of Sustained for Allegation #5.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. Engaged in a verbal altercation with Civilian 1, in violation of Rules 2, 3, 8, and 9	Sustained
	2. Pushed Civilian 1 against the wall, in violation of Rules 2, 3, 8, and 9	Sustained
	3. Grabbed Civilian 1 by the neck and choked her, in violation of Rules 2, 3, 8, and 9	Sustained

4. Lifted Civilian 1 off the ground by her throat, in violation of Rules 2, 3, 8, and 9	Sustained
5. Used your official position for personal gain or use when you used Department resources to access the Criminal History of Civilian 1 and sent it to COPA on or about February 15, 2018, in violation of Rules 4 and 41	Sustained

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Approved:

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*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	XX
<b>Investigator:</b>	Investigator 1
<b>Supervising Investigator:</b>	Supervising Investigator 1
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator 1